

House Bill 758 (AS PASSED HOUSE AND SENATE)

By: Representative Smith of the 168th

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act to revise and reenact the law creating a Board of Commissioners of Bacon
2 County, approved April 4, 1991 (Ga. L. 1991, p. 4436), as amended, so as to change the
3 description of the commissioner districts; to provide for definitions and inclusions; to provide
4 for continuation in office of current members; to revise vacancy provisions; to revise vice
5 chairperson provisions; to revise recall provisions; to revise quorum provisions; to revise
6 extra sessions or special meetings provisions; to revise provisions relating to the clerk and
7 assistant clerk; to provide for returns to the governing authority; to repeal certain tax
8 requirements; to change provisions relating to the budget; to repeal certain provisions relating
9 to quarterly publishing of the balance sheet and operating statement; to provide for annual
10 update of all county property; to clarify the purchasing policy; to revise public improvement
11 provisions to reference general law; to clarify that contracting and bidding requirements shall
12 comply with general law; to change the bond requirements to comply with general law; to
13 clarify performance bonds shall be required pursuant to general law; to clarify that duties of
14 the county relating to certain county structures comply with general law requirements; to
15 update provisions relating to the sale of county real property to comply with general law; to
16 repeal provisions relating to review of legislation by superior court judge; to provide for
17 submission and an effective date; to repeal conflicting laws; and for other purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 **SECTION 1.**

20 An Act to revise and reenact the law creating a Board of Commissioners of Bacon County,
21 approved April 4, 1991 (Ga. L. 1991, p. 4436), as amended, is amended by revising Section 1
22 in its entirety to read as follows:

23 "SECTION 1.

24 (a) Those members of the Board of Commissioners of Bacon County who are serving as
25 such immediately prior to the effective date of this Act and any person selected to fill a

vacancy in any such office shall continue to serve as such members until the regular expiration of their respective terms of office and upon the election and qualification of their respective successors. On and after the effective date of this Act, the Board of Commissioners of Bacon County shall consist of six members all of whom shall be elected from commissioner districts described in subsection (b) of this section.

(b) For purposes of electing members of the board other than the chairperson, each of whom must reside in the district from which the person is to be elected, Bacon County is divided into six commissioner districts. District 1 shall consist of all that territory embraced within the boundaries of Bacon County. Districts 2 through 6 shall be and correspond to those five districts described in and attached to this Act and made a part hereof and further identified as Plan Name: bacon07p3 Plan Type: Local User: Gina Administrator: Bacon Co.

(c) When used in such attachment, the terms 'Tract' and 'BG' (Block Group) shall mean and describe the same geographical boundaries as provided in the report of the Bureau of the Census for the United States decennial census of 2000 for the State of Georgia. The separate numeric designations in a Tract description which are underneath a 'BG' heading shall mean and describe individual Blocks within a Block Group as provided in the report of the Bureau of the Census for the United States decennial census of 2000 for the State of Georgia. Any part of Bacon County which is not included in any such district described in that attachment shall be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2000 for the State of Georgia. Any part of Bacon County which is described in that attachment as being in a particular district shall nevertheless not be included within such district if such part is not contiguous to such district. Such noncontiguous part shall instead be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2000 for the State of Georgia. Except as otherwise provided in the description of any district, whenever the description of such district refers to a named city, it shall mean the geographical boundaries of that city as shown on the census map for the United States decennial census of 2000 for the State of Georgia."

SECTION 2.

Said Act is further amended by revising Section 2 in its entirety to read as follows:

"SECTION 2.

(a) The members of the reconstituted Board of Commissioners of Bacon County shall be elected as provided in this subsection. The chairperson and the first members from Commissioner Districts 2 and 5 shall be elected at the general election on the Tuesday next

1 following the first Monday in November, 2008. The chairperson and those members of the
2 board elected thereto from Commissioner Districts 2 and 5 in 2008 shall take office the first
3 day of January immediately following that election and shall serve for initial terms of
4 office which expire December 31, 2012, and upon the election and qualification of their
5 respective successors. The first members from Commissioner Districts 3, 4, and 6 shall be
6 elected at the general election on the Tuesday next following the first Monday in
7 November, 2010. Those members of the board elected thereto from Commissioner
8 Districts 3, 4, and 6 in 2010 shall take office the first day of January immediately following
9 that election and shall serve for initial terms of office which expire December 31, 2014, and
10 upon the election and qualification of their respective successors. Those and all future
11 successors to members of the board whose terms of office are to expire shall be elected at
12 the time of the state-wide general election immediately preceding the expiration of such
13 terms, shall take office the first day of January immediately following that election, and
14 shall serve for terms of office of four years each. Members of the board shall serve for the
15 terms of office specified therefor in this subsection and until their respective successors are
16 elected and qualified.

17 (b) All members of the board who are elected thereto shall be nominated and elected in
18 accordance with Chapter 2 of Title 21 of the Official Code of Georgia Annotated, the
19 'Georgia Election Code.'

20 (c) Commissioner Districts 1, 2, 3, 4, 5, and 6, as they exist immediately prior to the
21 effective date of this Act, shall continue to be designated as Commissioner Districts 1, 2,
22 3, 4, 5, and 6, respectively, but as newly described under this Act, and on and after the
23 effective date of this Act, such members of the board serving from those former
24 commissioner districts shall be deemed to be serving from and representing their respective
25 districts as newly described under this Act."

26 SECTION 3.

27 Said Act is further amended by revising Section 3 in its entirety to read as follows:

28 "SECTION 3.

29 (a) No person shall be a member of the board if that person is ineligible for such office
30 pursuant to Code Section 45-2-1 of the Official Code of Georgia Annotated or any other
31 general law applicable to that office.

32 (b) In order to be elected or appointed as a member of the board from a commissioner
33 district, a person must have resided in that commission district for at least 12 months prior
34 to election or appointment thereto and, if elected, must receive the number of votes cast as
35 required by general law for that office in that district only and not at large. Only electors

1 who are residents of that commissioner district may vote for a member of the board for that
2 district. At the time of qualifying for election as a member of the board from a
3 commissioner district, each candidate for such office shall specify the commissioner
4 district for which that person is a candidate. A person elected or appointed as a member
5 of the board from a commissioner district must continue to reside in that district during that
6 person's term of office or that office shall become vacant.

7 (c) The member of the board who is chairperson of the board may reside anywhere within
8 Bacon County and, if elected, must receive the number of votes cast for that office as
9 required by general law in the entire county. The chairperson must continue to reside
10 within the county during that person's term of office or that office shall become vacant."

11 **SECTION 4.**

12 Said Act is further amended by revising Section 6 in its entirety to read as follows:

13 "SECTION 6.

14 (a) Any vacancy in office upon the board which occurs for any reason other than
15 expiration of term shall be filled as follows:

16 (1) If the vacancy occurs during the final 24 months of a term of office, within 30 days
17 after such occurrence, the remaining members of the board shall appoint a person to fill
18 such vacancy; or

19 (2) If the vacancy occurs at any time prior to the time specified in paragraph (1) of this
20 subsection, within 30 days after such occurrence, the remaining members of the board
21 shall appoint a person to fill such vacancy until a successor is elected at a special election
22 and qualified, which special election shall be held on the same date as the state-wide
23 general election which is first held following the date of the vacancy.

24 (b) Any person appointed to fill a vacancy in office pursuant to subsection (a) of this
25 section shall meet the same eligibility requirements specified for persons who are elected
26 to such office. Any person appointed to fill a vacancy under paragraph (1) of
27 subsection (a) of this section or elected to fill a vacancy under paragraph (2) of
28 subsection (a) of this section shall serve out the remainder of the unexpired term and until
29 a successor is elected and qualified."

30 **SECTION 5.**

31 Said Act is further amended by revising subsection (a) of Section 7 to read as follows:

32 "(a) At the first regular meeting each January, the board of commissioners shall by
33 majority vote elect one of their members as vice chairperson. The vice chairperson shall
34 serve at the pleasure of the majority of the members of the board and may be removed at

any time without notice, cause, or hearing. If the chairperson dies, resigns, or is removed from office, the vice chairperson shall assume the duties of the chairperson until such vacancy has been filled according to the provisions of this Act."

SECTION 6.

Said Act is further amended by revising Section 8 in its entirety to read as follows:

"SECTION 8.

Each member of the board of commissioners shall be subject to recall at any time after his or her election according to the provisions of Chapter 4 of Title 21 of the Official Code of Georgia Annotated."

SECTION 7.

Said Act is further amended by revising Section 10 in its entirety to read as follows:

"SECTION 10.

All regular meetings of the board of commissioners shall be held at a date and time to be adopted by majority vote of the commissioners in the office of said board or at a date and time to be adopted by the majority of the commissioners in office of said board or at a pre-announced place on the courthouse premises in Bacon County, Georgia, and said meetings may be adjourned from day to day until all business is completed. Any commissioner who fails to attend a monthly meeting forfeits his or her monthly salary for the month in which the meeting was missed. If any commissioner attends only part of a regularly scheduled meeting, the other commissioners shall decide whether or not to pay said commissioner. The majority of said commissioners shall decide on the validity of an excuse. Extra session or special meetings may be held at any time on the call of the chairperson of the board. Whenever a special meeting is called, notice shall be given by the clerk of the board to each member of the board, in writing, setting forth the date and the place of the meeting and the purpose for which the same is called, and no business shall be transacted at such special meetings except such as is given in the notice without the unanimous consent of the entire board of commissioners. Notice and purpose of meetings may be waived. All such notices shall be served by leaving the same at the home of each member or by delivering the same to him or her in person. All meetings, both regular and special, shall be open to the public; provided, however, that the board shall have the right to hold executive session; provided, further, that no official action or vote on any proposition or question coming before the board shall be taken at any other than a public meeting."

SECTION 8.

Said Act is further amended by revising Section 12 in its entirety to read as follows:

"SECTION 12.

It shall be the duty of the board of commissioners at the first regular meeting in each year to appoint a clerk of the board of commissioners. The board shall also have the power and authority to appoint an assistant clerk if it deems the same necessary. The salary of the clerk and the assistant clerk shall be fixed by the board of commissioners, and they shall serve at the pleasure of a majority of the board and may be removed at any time without notice, statement, or proof of cause. No member of the board of commissioners shall be eligible to hold the office of clerk during his or her continuance in office nor within 12 months after the expiration of the term nor within 12 months after resignation or removal from the office of commissioner."

SECTION 9.

Said Act is further amended by repealing and reserving Section 15, relating to certain duties of the clerk, in its entirety.

SECTION 10.

Said Act is further amended by revising Section 18 in its entirety to read as follows:

"SECTION 18.

All county officers of the various departments of Bacon County shall make a return, under oath, to the governing authority of Bacon County, setting forth a just and true statement of the amount of money received by them belonging to said county and the sources from which the same was received; also, the expenditures, accompanied with proper vouchers."

SECTION 11.

Said Act is further amended by repealing and reserving Section 22, relating to tax requirements, in its entirety.

SECTION 12.

Said Act is further amended by revising Section 23 in its entirety to read as follows:

1 "SECTION 23.

2 The board of commissioners shall annually, not later than the first regular meeting in
3 March of each year, adopt a budget as provided for in Article 1 of Chapter 81 of Title 36
4 of the Official Code of Georgia Annotated."

5 **SECTION 13.**

6 Said Act is further amended by repealing and reserving Section 29, relating to quarterly
7 publishing of the balance sheet and operating statement, in its entirety.

8 **SECTION 14.**

9 Said Act is further amended by revising Section 30 in its entirety to read as follows:

10 "SECTION 30.

11 An annual update shall be made by the board of commissioners of all property belonging
12 to Bacon County, both real and personal, and kept in an inventory book for public
13 inspection."

14 **SECTION 15.**

15 Said Act is further amended by revising Section 34 in its entirety to read as follows:

16 "SECTION 34.

17 A purchasing policy shall be adopted by the Board of Commissioners of Bacon County by
18 ordinance."

19 **SECTION 16.**

20 Said Act is further amended by revising Section 37 in its entirety to read as follows:

21 "SECTION 37.

22 The building, altering, repairing, improving, or demolishing of any public structure or
23 building or other public improvements of any kind to any public real property, other than
24 road projects, shall be governed by the provisions of Article 2 of Chapter 91 of Title 36 of
25 the Official Code of Georgia Annotated. Road projects shall be governed by Chapter 4 of
26 Title 32 of the Official Code of Georgia Annotated."

27 **SECTION 17.**

28 Said Act is further amended by revising Section 38 in its entirety to read as follows:

1 "SECTION 38.

2 Contracting and bidding requirements shall be conducted pursuant to Article 2 of Chapter
3 91 of Title 36 of the Official Code of Georgia Annotated."

4 **SECTION 18.**

5 Said Act is further amended by revising Section 39 in its entirety to read as follows:

6 "SECTION 39.

7 In the event a contractor is required to give bond, the provisions of Article 3 of Chapter 91
8 of Title 36 of the Official Code of Georgia Annotated shall apply to such bonds."

9 **SECTION 19.**

10 Said Act is further amended by revising Section 40 in its entirety to read as follows:

11 "SECTION 40.

12 Performance bonds shall be required as specified under Part 3 of Article 3 of Chapter 91
13 of Title 36 of the Official Code of Georgia Annotated."

14 **SECTION 20.**

15 Said Act is further amended by revising Code Section 42 in its entirety to read as follows:

16 "SECTION 42.

17 It is the duty of the Board of Commissioners of Bacon County to erect or repair, when
18 necessary, their respective courthouses and jails and all other necessary county buildings
19 and to furnish each with all the furniture necessary for the different rooms, offices, or cells
20 and to further comply with Code Section 36-9-5 of the Official Code of Georgia
21 Annotated."

22 **SECTION 21.**

23 Said Act is further amended by revising Section 45 in its entirety to read as follows:

24 "SECTION 45.

25 The sale or disposition of Bacon County real property shall be governed by the provisions
26 of Code Section 36-9-3 of the Official Code of Georgia Annotated."

SECTION 22.

Said Act is further amended by repealing and reserving Section 49, relating to review of legislation by the superior court judge, in its entirety.

SECTION 23.

The governing authority of Bacon County shall through its legal counsel cause this Act to be submitted for preclearance under the federal Voting Rights Act of 1965, as amended; and such submission shall be made to the United States Department of Justice or filed with the appropriate court no later than 45 days after the date on which this Act is approved by the Governor or otherwise becomes law without such approval.

SECTION 24.

All laws and parts of laws in conflict with this Act are repealed.